IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.09.2007

CORAM:

THE HONOURABLE MR.JUSTICE P.P.S.JANARTHANA RAJA

C.M.A. No.1900 of 2007

1. M/s.Aruna Theaters & Enterprises
   Private Limited,
   No.3, Pillar Road,
   Ashok Nagar, Chennai-600 083.

2. K.Muthusamy

3. P.Durai ... Appellants/ Respondents 1 to 3

Vs.

1.S.Balasubramanian
2.P.Kannan
3.K.Murugan
4.S.Murugan
5.K.Muthukrishnan
6.S.Venkatachalam
7.Justice K.Swamidurai (Retd.)
8.N.Sankaranarayanan
9.N.Arunachalathammal
10.P.Muthurajeswari
11.M.Shanmugasundari
12.G.Vasugi
13.R.Lakshmi
14.Dr.Uma Shankari
15.Indira Muthuvel
16.S.Paramasivam Pillai
17.M.Paramasivam
18.D.Anantha Valli
19.V.Manthiram
20.S.Saraswathi
21.Shanmugasundaram ... Respondents/ Petitioners 1 to 5, Respondents 4 to 19

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Appeal under Section 10F of the Companies Act, 1956 against the order dated 09.08.2007 of the Company Law Board, Additional Principal Bench at Chennai passed in Company Application No.41 of 2007 in Company Petition No.64 of 2006.

For Appellants : Mr.R.Gandhi, Sr.Counsel
for Mr.V.Ramakrishnan

For Respondents : Mr.P.H.Aravindh Pandian for R1 to R5
Mr.G.Ramu for R6
Mr.K.S.Natarajan for R7
Mr.A.K.Raghavalu for R8 and R9
Mr.Satish Parasaran for R10 to R14
Mr.S.Subbiah for R15
Mr.N.V.Srinivasan for R16, R17 and R19
Mr.S.S.Kumar for R20
Mr.C.Umasankar for R21

No appearance for R18

JUDGMENT

This Civil Miscellaneous Appeal is filed by the appellants against the order dated 09.08.2007 of the Company Law Board, Additional Principal Bench at Chennai passed in Company Application No.41 of 2007 in Company Petition No.64 of 2006, raising the following substantial question of law:-

> "Whether in the facts and circumstances of the case, the Company Law Board erred in law in granting interim relief to the respondents by directing the implementation of the resolutions for removal of the existing Directors, pending disposal of the main Company Petition?"

2. By consent of both the sides, the main Appeal itself is taken up for disposal.

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3. The background facts leading to the above substantial question of law are as follows:-

The respondents 1 to 5 filed a Company Petition in C.P.No.64 of 2006 under Sections 397, 398, 402 & 403 read with Section 235, 237 and Schedule XI of the Companies Act. The first appellant is a Private Limited Company. The second and third appellants are the Director-cum-Share Holders of the company. All the respondents are

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shareholders except the seventh respondent who was appointed as Commissioner by the Debts Recovery Tribunal ("DRT" in short), to manage the affairs of the company. The first appellant is a Private Limited Company incorporated on 09.11.1979, under the Companies Act having its Registered Office at No.3, Ashok Pillar Road, Ashok Nagar, Chennai-600083. The main objects of the company are as under:-

> "To carry on the business of Proprietors and Managers of Theatres, Cinemas Picture Palaces, Concert halls and Studios and to provide for the distribution, production, representation, exhibition of Cinematograph films, theatrical performances, dances, Musical and other entertainment of all kinds, open air theatres and to provide for production and representation of Films, operas, stage plays, Corettes, Burlesques, Vaudevilles, Reviews, ballets, pentomines, spectacular pieces, promenade and other concerts and other musical and dramatic performances of all kinds whatsoever whether by mechanical means or otherwise."

The authorised share capital of the company is Rs.20,00,000/- divided into 20,000 equity shares of Rs.100 each and the issued, subscribed and paid up share capital is Rs.7,59,600/- consisting of 7,596 equity shares of Rs.100 each. The shareholding pattern of the company is as follows:-

"1. S.Narayana Pillai (died) ... 766
   i. N.Arunachalathammal,
      W/o S.Narayana Pillai ... 500

2. S.Subramanian Pillai (died) ... 766

   i. S.Shanmugathammal (died),
      W/o S.Subramania Pillai ... 500

3. S.Karuppasamy Pillai (died) ... 166

   i. K.Parameswariammal,
      W/o S.Karuppasamy Pillai ... 100

   ii. K.Muthulakshmi,
      D/o S.Karuppasamy Pillai ... 200

   iii. S.Indira, D/o S.Karuppasamy Pillai ... 200

   iv. K.Vadivel Murugan,
      S/o Karuppasamy Pillai ... 200

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v.	K.Muthukrishnan, S/o S.Karuppasamy Pillai	... 200
vi.	K.Muthuselvakumar, S/o S.Karuppasamy Pillai	... 200
4.	S.Paramasivam Pillai	... 766
i.	P.Baghavathiammal (died), W/o S.Paramasivam Pillai	... 500
5.	S.Sundaram Pillai (died)	... 100
i.	S.Gomathiammal, W/o S.Sundaram Pillai	... 500
ii.	S.Balasubramanian, S/o S.Sundaram Pillai	... 666
6.	S.Kalyanasundaram (died) had 766 shares	
i.	K.Ulageswariammal W/o S.Kalyanasundaram 500 shares	
ii.	K.Muthusamy, S/o S.Kalyanasundaram	... 100
iii.	K.Shanmugasundaram, S/o S.Kalyanasundaram	... 350
iv.	K.Murugan, S/o S.Kalyanasundaram	... 200
v.	V.Ananthi, D/o S.Kalyanasundaram	... 43
vi.	K.Vallidevi, D/o S.Kalyanasundaram	... 41
vii.	M.Sundari, D/o S.Kalyanasundaram	... 41
viii.	C.Sankari, D/o S.Kalyanasundaram	... 41
ix.	M.Kanthimathy, W/o K.Muthusamy	... 100
x.	M.Kalyanasundaram, S/o K.Muthusamy	... 75
xi.	M.Sathya, S/o K.Muthusamy	... 75
xii.	M.Sharmila, W/o K.Murugan	... 200
	Total shares issued	7,596

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The appellants and the respondents belong to same family group, hailed from the native Udhayathur Village, Tirunelveli District. The family consists of six brothers. One Narayana Pillai along with his fifth brother Sundaram Pillai came over to Chennai in search of establishing a business as at that time, there was no scope of any business activities in their native village. The first business they started was a Food Grains business. It flourished very well. They brought their other four brothers, namely, (1) Subramania Pillai (2) S.Karuppasamy Pillai (3) S.Paramasivam Pillai and (4) S.Kalyanasundaram Pillai, also to Chennai and engaged them in the said business which grew monetarily very well giving scope for establishing more number of businesses. The first business was started in the name and style of "Asoka Traders", a wholesale business in food grains. The said business was started in a premises measuring 336 sq.ft. at Door No.15, Anna Pillai Street, Chennai-600 001. The six brothers started another wholesale food grains business called "ANANTHA MALIGAI" in a rented place at No.139, Audiappa Naicken Street, Chennai-600 001. To manage the said two wholesale business namely, "Asoka Traders" and "Anantha Maligai", the brothers purchased a property measuring 1 ½ grounds at No.6, Davidson Street, Chennai-600 001, constructed own building and kept their office. The brothers thereafter started a concern called "ANANDA INDUSTRIES" for hulling dhal items in a big manner. They also started a steel re-rolling mill under the name and style of "ARAVIND INDUSTRIES". Later they have also purchased 50% shareholdings in the company called M/s.Century Flour Mills Ltd. Later, the six brothers also started a Biscuit business called "Dollar Biscuit Co. Pvt. Ltd." over a land purchased for the same measuring 3.80 acres at No.9, Old Mahabalipuram Road, Chennai-600 096. To sum up, the six brothers started totally 7 business concerns and out of the same, 4 were partnership concerns and 3 were Private Limited Companies. All the six brothers and their children alone have been the only group of persons enjoying ownership rights over the said businesses. Even over the 3 Private Limited Companies all the six brothers jointly held rights by allotting equal shares and whenever any single brother died, the deceased brother's legal heirs inherited joint shareholding both in the Private Limited Companies and in the partnership businesses. The first appellant Company was promoted by six brothers of a family during the year 1979. In late 1980, when the Tamil Nadu Housing Board earmarked in the Ashok Nagar Scheme an area of 23 grounds and 1930 sq.ft. for housing a Cinema Theatre and the adjacent plot of land measuring 5 grounds and 800 sq.ft. for allotting to a petrol pump, all the brothers unanimously decided to obtain allotment of the said two properties for their family. As at that time if theatre and petrol pump would not have been operated over the respective lands allotted by Tamil Nadu Housing Board, the authorities were to cancel the allotment of land and further due to such an eventuality the properties were to be

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affected by the Urban Land Ceiling Act, the appellant Company commenced construction of the Udayam Theatre Complex over the 23 grounds 1930 sq.ft. of the land. After the demise of the first respondent's father in January 2003, the first respondent became the Director of the appellant Company. But the first respondent has not received any notice of the Board Meetings of the appellant company ever since he became a Director of the Company and in spite of several requests to the second and third appellants herein, as a Director of the Company, they have failed to send notices for the Board Meetings of the company. Then there was a misunderstanding between the appellants as well as the respondents and there were allegations and counter allegations against each other. Respondents 1 to 5 filed a Company Petition in C.P.No.64 of 2006 under Section 397, 398, 402 & 403 read with Section 235, 237 and Schedule XI of the Companies Act and prayed as follows:-

> "RELIEF SOUGHT:-
> a) To direct the respondents 2 to 4 to restore the money and property which has been retained and misapplied and to compensate such sum to the assets of the company towards guilty of misfeasance and breach of trust in relation to the company.
> b) To appoint one or more competent persons to investigate into the affairs of the company for the period between 2000-2005 and submit a report before this Hon'ble Bench.
> c) To dissolve the present board of directors and call an Extra-ordinary General Meeting of the company to constitute a new board of directors.
> d) To declare all the resolutions passed at the Board Meetings since January 2003 as null and void.
> e) To pass such other further orders in the interest of the 1st respondent company and the shareholders.
>
> INTERIM RELIEF:
> a) To appoint the receiver / administrator Hon'ble Justice Swamidurai as an independent Chairman to manage the affairs of the company till the disposal of the petition.
> b) To appoint an advocate commissioner to authenticate the books of accounts and other statutory records of the 1st respondent company.
> c) To convene an Extra-ordinary general meeting of the 1st respondent company as requisitioned by some of the shareholders of the company by a requisition letter dt.14/11/06.
> d) To restrain the respondents 2 to 4 from calling and convening any Board meetings without the prior sanction of this Hon'ble Bench.

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e) To direct the present Board of directors to submit a weekly report before this Hon'ble Bench on the daily collections made by the 1st respondent company from the cinema theatres owned by it."

Later the appellants 2 and 3 and also the sixth respondent herein, who were the ex-Directors of the company were acting against the interest of the company and hence majority of the shareholders of the company representing about 64% of the share capital of the company sent a requisition notice under Section 169 of the Companies Act, 1956 for convening an Extraordinary General Meeting of the company for the removal of the appellants 2 and 3 and the sixth respondent from the Board of Directors of the company and in their place appointing the respondents 2 to 5 as the Directors of the company. The said Requisition Notice was sent by the shareholders to the company on 14.11.2006 and in spite of no bar in holding the Board Meetings, the previous Board failed to comply Section 169(6) of the Companies Act, 1956 to call the Extraordinary General Meeting within 21 days of deposit of the said notice by the shareholders and hence the requisitionists themselves proceeded to call the Extraordinary General Meeting on their own by sending 21 days clear notice dated 08.12.2006 to all the shareholders calling an Extraordinary General Meeeting on 05.01.2007 at 10.20 a.m. at the registered office of the company. Pursuant to the calling of Extraordinary General Meeting by majority of shareholders of the company as aforesaid, few shareholders prayed before the Hon'ble Company Law Board for an interim stay of the Extraordinary General Meeting called on 05.01.2007. The Company Law Board by its order dated 14.12.2006 passed the following order:-

"1. The impleading applications are allowed, permitting the applicants to be arrayed as parties to the company petition. Accordingly, the petitioners will file amended petition by 29.12.2006.

2. The Company as and when convenes any extra ordinary general meeting pursuant to the requisition given by the shareholders will not implement any of the resolutions which may be passed at such meeting, without leave of this Bench.

3. The Company is at liberty to convene the board meeting with leave of this Bench."

From a reading of the above order, it is clear that the Company Law Board refused to grant stay of the Extraordinary General Meeting and therefore permitted the holding of the meeting with a condition not to implement the same except with the leave of the Company Law Board. The matter was also posted on 08.01.2007. Later one of the shareholders of the company even filed a Civil Suit No.4 of 2007 along with O.A. No.2 of 2007 before this Court seeking interim injunction restraining the requisitionists from holding the

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Extraordinary General Meeting of the company on 05.01.2007. This Court, dismissed the application in O.A. No.2 of 2007 recording the fact that the Company Law Board has seized of the issue and has already permitted the holding of the meeting with a condition that the resolutions shall not be implemented except with the leave of the Company Law Board and hence the request was dismissed and the said order become final. In consequence of the orders, the Extraordinary General Meeting duly called by the requisitionists as per the provisions of law was held on 05.01.2007 wherein 36 members totally participated at the meeting and members holding 5,359 shares (constituting about 78%) voted for the resolutions for the removal of the appellants 2 and 3 and the 6th respondent herein and appointed in their place the respondents 2 to 5 herein and only members holding 1,459 shares voted against the said resolutions. It is also not disputed that none of the shareholders of the company including the appellants 2 and 3 and the sixth respondent herein have challenged the said meeting till date. Later the respondents 1 to 5 filed an application in C.A.No.41 of 2007 requesting the Company Law Board for implementation of the resolutions passed at the Extraordinary General Meeting held on 05.01.2007 and the appellants 2 and 3 and the sixth respondent have resisted the implementation. After hearing the arguments advanced by both the sides, the Company Law Board, by order dated 09.08.2007 allowed the Company Application No.41 of 2007 and ordered that the respondents 2 to 5 are at liberty to implement the resolutions passed in the Extraordinary General Meeting on 05.01.2007, with certain conditions. Aggrieved by the order, the appellants have filed the present appeal.

4. Learned counsel appearing for the appellants submitted that the Company Law Board erred in permitting implementation of the resolutions passed at the Extraordinary General Meeting held on 05.01.2007 directing the removal of the appellants 2 and 3 and the sixth respondent as Directors and reconstituting the Board of Directors pending disposal of the main Company Petition. It is also further submitted that the Company Law Board failed to appreciate that the interim order tantamounts to allowing the Company Petition at the interim stage itself. It is also submitted that the issues raised were mixed questions of fact as well as the law which cannot be adjudicated at an interim stage in granting the interim relief. Hence granting interim relief is against the provision of law. It is also further submitted that the interim relief granted by the impugned order is identical to the final relief prayed for in the Company Petition and that interim relief was sought on the basis of an entirely new case neither pleaded nor proved in the Company Petition. It is also submitted when the Receiver appointed by the Debts Recovery Tribunal was in charge of the day to day management and the affairs of the company, there was no necessity for the implementation of the resolutions. It is also

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submitted that the respondents had not established any prima facie acts of oppression and mismanagement committed by the appellants and the entire acts complained by the respondents are past and concluded acts and which do not fall within the ambit of Sections 397 and 398 of the Companies Act. It is also further submitted that if the resolutions are implemented it would cause irreparable hardship and damage to the appellants. It is also further submitted that if the present resolutions are implemented, the Board of Directors will consist of six Directors, which amounts to violation of Articles of Association. Chinnammal cannot be said to be impliedly removed since the provisions of section 284 of the Companies Act has not been followed in respect of Chinnammal. It is also further submitted that the appellants are not against the appointment of a Commissioner to manage the company. It is therefore submitted that giving effect to the resolutions passed in the Extraordinary General Meeting held on 05.01.2007 is contrary to law, illegal, without basis and justification and hence the order passed by the Company Law Board is not in accordance with law.

5. Counsel appearing for respondents 1 to 5, submitted that the majority of the shareholders of the company representing about 64% of the share capital of the company sent a requisition notice under Section 169 of the Companies Act, 1956 for convening an Extraordinary General Meeting of the company for the removal of the appellants 2 and 3 and the sixth respondent from the Board of Directors of the company and the said notice was sent by the shareholders to the company on 14.11.2006. Pursuant to the calling of Extraordinary General Meeting by majority of shareholders of the company as above, some of the shareholders prayed for interim stay of the Extraordinary General Meeting called on 05.01.2007 and the same was rejected by the Company Law Board on 14.12.2006. Also one of the shareholders moved before this Court seeking interim injunction restraining the requisitionists from holding the Extraordinary General Meeting of the company and this Court also dismissed the same with a direction that the resolutions shall not be implemented except with the leave of the Company Law Board. Thereafter, none of the shareholders of the appellant Company challenged the said meeting or resolutions till date. Hence the General Meeting held as well as resolutions passed are in accordance with law. The Company Law Board strictly has given effect to the resolutions passed in the Extraordinary General Meeting with certain directions. Further it is submitted that the implementation of the resolutions passed by the majority of the shareholders removing the appellants 2 and 3 and the 6th respondent from the Office of Directors would neither amount to ordering of final relief nor adjudicating the main petition itself. It is only an interim order which is subject to the outcome of the final order. Therefore, the Company Law Board is right in implementing the resolutions passed by the majority of the shareholders at the

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Extraordinary General Meeting of the company held on 05.01.2007. Hence the order passed by the Company Law Board granting interim stay with certain conditions, is in accordance with law.

6. The counsel appearing for respondents 8 and 9 vehemently contended that the Company Law Board ought not to have given effect to the resolutions passed in the Extraordinary General Meeting, when the issue is common for both the main petition as well as the interim application. It is also stated that the Commissioner appointed by the DRT, the 7th respondent herein should not be removed from managing the affairs of the company. He also made an alternative submission that the Court may give suitable direction to the Company Law Board to dispose of the main petition and till that time, the Directors should not take any major policy decision.

7. Counsel appearing for the respondents 10 to 14 submitted the Company Law Board is right in granting permission to implement the resolutions passed in the Extraordinary General Meeting on 05.01.2007 subject to certain conditions. There is no dispute that the majority of the shareholders decided to remove the appellants 2 and 3 and the 6th respondent from the Office of Directors. Also the members holding more than 70% of the shares have expressed their support for such removal by way of filing affidavits. Hence the Company Law Board had considered the relevant materials and come to the correct conclusion. Hence the order passed by the Company Law Board is in accordance with law.

8. Counsel appearing for the 16th, 17th and 19th respondents submitted that the order of the Company Law Board is erroneous and it ought not to have given effect to the resolutions passed in the Extraordinary General Meeting held on 05.01.2007 directing the removal of the appellants 2 and 3 and the sixth respondent as Directors, pending disposal of the main Petition. The issue involved are mixed questions of fact as well as the law and the Company Law Board ought not to have held and it cannot be adjudicated at the interim stage and thereby erroneously granting the interim relief. Further the counsel vehemently contended that the 7th respondent must continue as a receiver and attend to the day to day affairs of the company. He alternatively submitted that suitable direction may be given to the Company Law Board to take up the main matter and dispose of the same and that till the same is disposed off, the Board of Directors shall not take any major policy decision.

9. Counsel appearing for respondents 6, 7, 15, 20 and 21 also submitted that the order passed by the Company Law Board is in accordance with law and further adopted the arguments of the counsel for respondents 1 to 5.

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10. Heard the counsel. There is no dispute to the fact that a large number of shareholders of the first appellant Company holding about 64% of the paid up capital of the Company, sent a requisition dated 14.11.2006 to the Board of Directors under Section 169 of the Act to convene an Extraordinary General Meeting for removal of the appellants 2 and 3 and also the 6th respondent from the office of Directors and to appoint the respondents 2 to 5 as Directors of the Company. The appellants 2 to 4 and the 6th respondent herein, failed to call a meeting as required under law and therefore, the requisitionists were constrained, in terms of a notice dated 08.12.2006, to call an Extraordinary General Meeting of the Company on 05.01.2007 at the Registered Office of the company. It is also on record that, in the Extraordinary General Meeting convened and held on 05.01.2007 by the requisitionists / shareholders, as many as 36 members took part in the meeeting, out of whom, members holding 5359 shares voted for the resolutions for removal of the appellants 2 and 3 and the 6th respondent as Directors and appointment of respondents 2 to 5 as Directors of the Company. Members holding 1459 shares voted against the resolutions as borne out by the scrutineer's report dated 05.01.2007. All the items in the agenda relating to removal and appointment of Directors have been approved in terms of the proceedings of the Extraordinary General Meeting recorded by the Chairman of the meeting. Also, there is no dispute that no procedural irregularities have been pointed out by any members in the conduct of the proceedings of the Extraordinary General Meeting. Calling for Extraordinary General Meeting satisfies the requirement of Section 169 of the Act. It was found on a close scrutiny that as many as 34 shareholders controlling 70.59% of shares have individually filed affidavits with the Bench affirming support in favour of the newly constituted Board of Directors of the Company. The Company Law Board has to recognise the collective wisdom of majority of the members and respect the corporate democracy of a company in managing its affairs. The Company Law Board will not normally interfere with the day to day functions, management and administration of a company, unless it is shown that the decisions taken by the members at the Extraordinary General Meeting are ultra vires the Act or the Articles of Association of the company. It also cannot be said that the implementation of the resolutions passed by the majority of the shareholders would amount to ordering of final reliefs nor adjudicating the main petition itself. In the present case, some shareholders went and challenged to call for the Extraordinary General Meeting before the Company Law Board and the same was dismissed on 14.12.2006, and the Company Law Board rightly called for the meeting subject to a condition that any resolution passed in the Extraordinary General Meeting will not be given effect to without the consent of the Bench and posted the matter on 08.01.2007 for hearing. After passing of that order, one of the shareholders challenged the same before this Court. This Court

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also by order dated 05.01.2007 dismissed the Original Application in O.A.No.2 of 2007 in C.S.No.4 of 2007. The prayer in the said Original Application is to declare that the notice dated 08.12.2006 issued for convening an Extraordinary General Meeting on 05.01.2007 at 10.30 a.m. is illegal, invalid and ultra vires and for consequential permanent injunction restraining the defendants 5 to 30 therein from holding the Extraordinary General Meeting of the company on 05.01.2007 or on any subsequent date. After hearing the arguments, this Court held as follows:-

> "Further, in the meeting to be held on 5.1.2007, if any resolution is passed, the same cannot be implemented automatically, whereas the approval should be obtained or leave should be obtained from the Company Law Board. In this view, even if any resolution is passed on 5.1.2007, for its implementation, the parties have to approach the Company Law Board and the applicant, if he desires, can get himself impleaded as a party in C.P.No.64 of 2006 and question the resolution, if any passed in the Extraordinary General Meeting to be held on 05.01.2007."

There is no dispute that the Extraordinary General Meeting was held on 05.01.2007 and resolutions were also passed. The said resolutions were passed by the majority of shareholders. The Apex Court in the case of Life Insurance Corporation of India Vs. Escorts Ltd. and Others, [1986] 59 Company Cases 548 (SC) considered the scope of passing resolution in the companies Extraordinary General Meeting wherein it was held that the only effective way the members of a company in a general meeting can exercise their control over the directorate in a democratic manner is to alter the articles of association so as to restrict the powers of the directorate and appoint other directors in their place. It was also held that the holders of the majority of the stock of a corporation have the power to appoint, by election, directors of their choice and the power to regulate them by a resolution for their removal. It was also held that an injunction cannot be granted to restrain the holding of a general meeting to remove a director and appoint another. Applying the above principles, the Company Law Board correctly held that if the resolutions are not given effect to, it will cause great prejudice to the majority of the shareholders. After considering the facts and circumstances of the case, especially the allegations and the counter allegations made by each parties, the Company Law Board passed the following order:-

> "In view of my foregoing conclusions, it is hereby ordered that the applicants are at liberty to implement the resolutions passed at the extra ordinary general meeting held on 05.01.2007 on the following conditions:-
> (i) The board of directors of the Company shall act subject to the order dated 17.05.2005 made in I.A. No.414 of 2004 in O.A. No.178 of 2004 by the DRT.

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(ii) The notice of board meetings together with agenda thereon shall be forwarded to the 18th respondent fifteen days prior to every board meeting of the company.
(iii)The 18th respondent is entitled to attend the board meetings convened periodically by the Company as an invitee and shall not exercise any of the rights of a director.
(iv) This order is subject to the outcome of the main petition."

The majority of the shareholders of the company representing 70% of the shareholders of the company extended their support for the implementation of the resolutions passed in the Extraordinary General Meeting on 05.01.2007. Only thereafter, they requested the Company Law Board to permit implementation of the resolutions. Also it has to be noted here that the appellants 2 and 3 and the 6th respondent never challenged the order of the Company Law Board dated 14.12.2006 permitting the holding of the Extraordinary General Meeting, nor subsequent to the holding of the Extraordinary General Meeting on 05.01.2007. Hence, it is too late in the day to question the resolutions passed in the Extraordinary General Meeting by the majority of the shareholders. It is also not in dispute that there are no procedural irregularities or illegalities. I am also conscious of the fact that the order sought for was in the nature of one of the main relief. It is well settled that in the given circumstances, the Court can always pass interim relief in the nature of final relief, provided the situation warrants. In this case, it is necessary to grant such relief in view of the resolutions passed by the majority of the shareholders in the Extraordinary General Meeting. In the present case the Company Law Board excercised its discretion judicially and granted the relief only after taking into consideration the various relevant factors as discussed above. The Company Law Board has given effect to the decision of the majority. It is only an interim measure and a temporary one. It is also subject to the outcome of the final order in the main petition. The findings given by the Company Law Board are based on valid materials and evidence on record. The Company Law Board has considered all the relevant materials, especially the Extraordinary General Meeting convened by the majority of shareholders and thereafter resolutions were passed by the majority of the shareholders. I do not find any error or illegality in the order of the Company Law Board so as to warrant interference. The order of the Company Law Board is in accordance with law and it is therefore confirmed.

11. Taking into consideration the facts and circumstances of the case, especially in the interest of justice, and also the allegations and the counter allegations made by both the sides and in view of the alternative submission made by the respondents, it would be more appropriate to give direction to the Company Law

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Board to dispose of the main petition pending before it. Therefore, the Company Law Board is directed to take up the main petition in C.P.No.64 of 2006 and consider the same after giving opportunity to all the parties to raise their contention, and pass orders in accordance with law ON OR BEFORE 31.01.2008. Further I also direct the counsel appearing on both the sides to complete all the formalities and extend their full cooperation to the Company Law Board to dispose of the matter within the stipulated time as stated above. In view of the alternative submission made by the respondents, it is necessary to give further directions in addition to the directions already given by the Company Law Board, which are as under:-

a) No major policy or important decisions to be taken by the Board of Directors without the consent of the Company Law Board.

b) No alienation, transfer, encumberances of the company assets without the consent of the Company Law Board.

c) The Board of Directors shall take only decisions to manage the day to day affairs of the company till the Company Law Board passes final order.

12. In view of the foregoing reasons, the Civil Miscellaneous Appeal is dismissed. Consequently, M.P.No.1 of 2007 is closed. No costs.

Sd/-
Asst. Registrar.

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Sub Asst. Registrar.

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To

1. Company Law Board,
   Additional Principal Bench,
   Chennai.

2. The Section Officer,
   VR Section,
   High Court, Madras.

1 cc to Mr.A.K.Raghavalu, Advocate, sr. 58648
1 cc to Mr.K. S. Nataraan, Advocate, sr. 58601
1 cc to Mr.S.S.Kumar, Advocate,SR. 58274

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2 ccs to Mr.Sathish Parasaran, Advocate, Sr. 58218
1 cc to MR.C. Umashankar, Advocate, sr. 58356
1 cc to Mr.S. Subbiah, Advocate, SR. 58301
1 cc to Mr.P.H. Arvindh Pandian, Advocate, SR. 58307
1 cc to Mr.V. Ramakrishnan, Advocate, str. 58340

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